UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/448,617	11/23/99	OLSEN	D 1416-FBI

EXAMINER	
CHRISTMAN, K	
ART UNIT	**PAPER NUMBER**
3713	

QM32/0731
CARLA MAGDA KRIVAK OFC OF PATENT COUNSEL
THE JOHNS HOPKINS UNIVERSITY
APPLIED PHYSICS LABORATORY
11100 JOHNS HOPKINS ROAD
LAUREL MD 20723-6099

DATE MAILED: 07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/448,617	OLSEN, DALE E.	
	Examiner	Art Unit	
	Kathleen M Christman	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 May 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-65* is/are pending in the application.

4a) Of the above claim(s) *17-21, 38-42, 44-48, 51, and 54-59* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16, 22-37, 43, 49, 50, 52, 53, and 60-65* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

In response to election filed 05/15/01 claims 1-65 are pending in this application, of which claims 17-21, 38-42, 44-48, 51, and 54-59 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected groups II and III, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6. Claims 1-16, 22-37, 43, 49, 50, 52, 53, and 60-65 are under consideration.

Election/Restrictions

1. Applicant's election of Group I in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The restriction requirement is deemed proper and is therefor made FINAL.

Claim Objections

2. Claim 53 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The idea that a statement is verbalized already means that a user will have to articulate the statement.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 61-63 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by James et al (US 5864844). James et al clearly shows a method, system, and computer readable medium which includes simulating a person, selecting statements by the user, articulating audio responses by the simulated person, and interrelating the statements selected by the user, the audio responses and the simulated person, see figures 2-5, 17 and 18 and col. 3: 50-col. 4: 10.

5. Claims 60, 64 and 65 rejected under 35 U.S.C. 102(a) as being clearly anticipated by Harless (US 5730603). Harless clearly shows a system, method and computer readable medium which includes simulating a person, creating a plurality of statements to be verbalized by a user, creating means for recognizing the verbalized statement, creating a plurality of audio responses for articulation by the simulated person, creating logic means for interrelating each of said audio responses, said simulated person, and said statements to be verbalized by the user, see Figures 1, 4, 5 and 6.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 2, 4-6, 9, 10, 14, 15, 43, and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844). James et al discloses an interactive apparatus, which includes a plurality of video vignettes and audio responses, a plurality of statements to be selected by the user and logic means for relating each of the statements to be selected by the user with the audio responses and video vignettes. In particular the James et al patent discloses a system in which a plurality of possible statement options are given to the user, each of the statements is related to a response that is constructed of a series of prerecorded audio and video samples, see col. 6: 46-col. 7:47. The computer has a logic program referred to by James et al as the inference engine. Regarding claims 2, the personality profile of applicant's invention can again be interpreted as the "inference engine" disclosed by James et al. The inference engine receives the queries selected by the user and responds with a proper audio and video response. Claims 14 and 15 relate in scope to claims 1 and 2, respectively, and are rejected for the same reasons. Regarding claims 4-6, these claims are directed to providing selections to the used based on prior selections made by the user. Specific to claims 6, the broadest in scope, James et al discloses that a user will receive further questions that can be asked based on the prior series of questions in col. 11: 42-61. Similarly this applies to claims 4 and 5, which allow for alternative statements based on prior history of either audio or video, respectively. As the system interface of James et al uses both previously selected audio and video in its decision it would be obvious to one of ordinary skill in the art to separate this requirement. Claims 9 and 10 are similar in

scope and are rejected for the same reasons. Regarding claim 43, the physical structure of the system that the James et al system may be run on is shown in col. 5: 7-23, under the heading "computer system".

10. Claims 3, 7, 8, 11-13, 16 , 22-37, 49, 50, 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in View of Harless. Claims 22, 23, 25-27, 30, and 31 correspond to claims 1, 2, 4-6, 9, and 10 above, and claim 50 is dependent on claim 14, adding the limitation that the questions from the user must be spoken by the user. James et al provides for a microphone in the computer structure of the system implying that there may by verbal inputs but does not clearly state that the inputs are verbalized. Harless teaches a interactive system in which the user must verbalize their responses. Claims 35 and 36 correspond in scope to claims 22 and 23 and are rejected for the same reasons. Claim 53 adds no new matter to claim 35 and is rejected for the same reasons. Regarding claims 49 and 52, James et al does not specifically show that the system is voice activated. The system of Harless is voice activated in that it becomes active only once the user has spoken. Regarding claims 11 and 32, James et al does not directly teach that the personality profile emulator will be altered based on the user inputs. Harless teaches this in col. 8: 30-42. As both the system of James et al and the system of Harless disclose programs for interacting with virtual characters it would have been obvious to combine them as shown above in order to allow a user to speak commands both to select a response and to begin a program, and additionally to create a more realistic conversation system.

Regarding claims 7, 8, 12, 13, 28, 29, 33, and 34, neither James et al nor Harless directly teaches that a "performance score" is created. However, both systems are design to teach the user about interpersonal relationships. Scoring a user in the skill or skills they are developing is old and well known in the art. It would therefore be obvious to include this well-known feature into either of the systems.

Regarding claims 3, 16, 24, and 37, James et al does not specifically discloses that a response from the simulated person will be associated with the failure of a user to respond. Harless does disclose that prompts are shown to user to aid them through the process of learning the system, especially for a user not familiar with the system. Harless thus includes prompts that may be associated with the user not

responding within a predetermined amount of time, see Figure 6. It would be obvious to include this into the James et al system so that an unfamiliar user would be able to realize when they were being requested to input an answer.

Conclusion

11. Unless specifically noted in a section entitled "Allowable Subject Matter" all claims pending in this application are not considered to be allowable.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. James et al (US 5721845) discloses a system similar to that of the James et al patent above

b. Knight et al (US 5676551) discloses a system and method in which the user may help to develop an artificial characters interaction abilities, in hopes of modeling human relationships

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Velencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Kathleen M. Christman
Kathleen Christman
Patent Examiner
July 24, 2001

Joe H. Cheng
Primary Examiner